



## WESTFIELD-WASHINGTON

### BOARD OF ZONING APPEALS

May 11, 2010

1005-VU-01

Exhibit 1

<b>PETITION NUMBER:</b>	1005-VU-01
<b>SUBJECT SITE ADDRESS:</b>	1021 Kendall Court
<b>APPELLANT:</b>	Yevgeniy Kelwanson
<b>REQUEST:</b>	The Appellant is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.070-2) to allow an Automobile Service and Repair, and Auto Storage facility within the US 31 Overlay District.
<b>CURRENT ZONING:</b>	EI and US 31 Overlay District
<b>CURRENT LAND USE:</b>	Undeveloped Open Space
<b>APPROXIMATE ACREAGE:</b>	1
<b>RELATED CASES:</b>	88-V-27 (Blanket variances to allow for the subdivision of what is now Westfield Business Park).
<b>EXHIBITS:</b>	<ol style="list-style-type: none"><li>1. Staff Report</li><li>2. Aerial Location Map</li><li>3. US 31 Overlay Zone Map</li><li>4. Appellant's Application</li></ol>
<b>STAFF REVIEWER:</b>	Ryan Schafer

### **PETITION HISTORY**

The May 11, 2010 Board of Zoning Appeals meeting represents the first hearing of this petition before the Board.

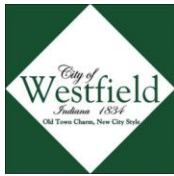
### **PROPERTY HISTORY**

The property located at 1021 Kendall Court (the "Property") was created in 1990. Prior to the Property being split, a blanket variance reducing lot size was obtained for the entire Westfield Business Park. The Property has remained vacant since it was split. There are no pending code enforcement cases for the Property.

### **ANALYSIS**

The petitioner is requesting a use variance to allow for an Automobile Service and Repair, and Auto Storage facility (the "Proposed Use") on the Property. The Property lies just inside the US 31 Overlay (see Exhibit 3) and thus under the jurisdiction of standards set forth in Section 16.04.070 of the Westfield Washington Zoning Ordinance (the "Ordinance"). "Automobile Service and Repair" includes auto body/collision repair and paint; "Auto Storage" would include the storage of unfit-to-be-driven automobiles at the Property until automobiles are repaired and in driving condition.

Adjacent properties on Kendall Court are fully developed. All uses on Kendall Court are office/warehousing in nature and service oriented; all structures are either one or two stories in height. Directly south of the Property is also office/warehousing, however this southern property utilizes enclosed outdoor storage for various construction equipment.



The Property is located within an area that is identified in the Westfield Washington Comprehensive Plan ("the Comprehensive Plan") as "Business Park" and "Employment Corridor". Both areas allow for subordinate local service uses. The Proposed Use is consistent with the recommendations established in the Comprehensive Plan. The Comprehensive Plan states that "uses that include outdoor storage or that generate other external impacts should be limited to the interior of business parks." The Board may wish to consider enclosure and screening requirements for the auto storage area if a motion for approval is made.

### **PROCEDURAL**

A Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under IC 36-7-4-918.4 only upon a determination in writing that:

### **STANDARDS FOR USE VARIANCE REQUEST**

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

**Finding:** It is unlikely that the Proposed Use would be injurious to the public health, safety, morals, and general welfare of the community. The Proposed Use would be located in an existing, developed business park with improvements already in place for emergency access.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

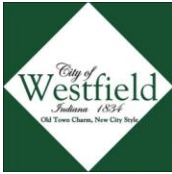
**Finding:** It is unlikely that the use and value of adjacent property will be affected in a substantially adverse manner. The Proposed Use is consistent with adjacent and neighboring uses.

3. The need for the variance of use arises from some condition particular to the property involved:

**Finding:** The US 31 Overlay District does not permit the Proposed Use. However, the Comprehensive Plan promotes such a development. The Property is surrounded by existing business uses and the proposed development is similar to these existing businesses.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance of use is sought:

**Finding:** Strict application of the zoning ordinance would result in an unnecessary hardship in using the Property. The boundaries of the US 31 Overlay extend beyond the immediate highway corridor; the likely intent of the overlay district is to regulate use and development of properties that relate US 31. Because the Property is not within the line of the sight of motorists driving along US 31 and is in an established business park that incorporates a mix of



commercial and industrial uses, it is undesirable to apply the US 31 Overlay standards to the Property.

5. The approval does not interfere substantially with the comprehensive plan:

**Finding:** The Property is located in an area the Comprehensive Plan identifies as “Business Park” and “Employment Corridor”. Both classifications allow for the Proposed Use as recommended in the Comprehensive Plan. Therefore an approval would not substantially interfere with the Comprehensive Plan.

**RECOMMENDATIONS**

Approve this request based on the findings of this report, with the following condition:

- That the area of the Property to be utilized as an outdoor vehicle storage area is fully enclosed using opaque materials and its perimeter screened by plant materials at a rate of 1 evergreen tree per 40 feet and 5 evergreen shrubs per 40 feet.

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***RAS***